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The CIA Shouldn't Spy on Americans

The administration is discussing with Congress a plan to authorize the CIA to engage in spying on Americans, for instance, by infiltrating domestic organizations. Public discussion of this proposed change will undoubtedly focus on the risks posed to our democratic liberties. That is understandable. No one wants the process of gathering intelligence in order to defend those liberties to, in fact, undermine them. Thus there is legitimate room for serious debate on this point. We should not, however, become so preoccupied with that emotional issue that we fail to explore the impact such a change could have on the effectiveness of our intelligence capabilities. I believe it would be very injurious.

It could be injurious because it would lead the CIA into activities for which it is not well-equipped. The CIA's previous involvements in gathering data about Americans were a large factor in the intense public criticism of the agency that evolved from the various investigations of 1975-76. The exaggeration that accompanied the justified criticisms of those unauthorized intrusions into the privacy of Americans harmed the CIA greatly.

Authorizing the CIA to look into the activities of Americans could well lead to another wave of criticism, and that could be fatal to the CIA. Why should we be concerned about such a possibility? Because CIA officers are not trained to operate in the domestic environment, where regard for law is a primary consideration. The ethic of intelligence is to get the job done in spite of local laws. It is unwise and unfair to force CIA operations into the domestic arena. It isn't necessary, either, for that is exactly where FBI officers are trained to operate. They instinctively research the legal limits surrounding any new assignment. They have over many years proved themselves to be professionals at both counterintelligence and the gathering of positive intelligence. With more emphasis on the latter they could cover whatever tasks the administration has in mind for the CIA.

In addition to reducing the risks that the CIA would be overly zealous in the domestic arena, there would be very positive benefits to our overall intelligence capabilities from such an arrangement.

It would encourage close cooperation between the CIA and the FBI. How foolish it is if one of those agencies has information that the other needs and fails to share it. That, unfortunately, was the case in the latter days of J. Edgar Hoover. Those days are gone; cooperation today is excellent. Authorizing the CIA to intrude into the lives of Americans inside this country would be interpreted as a lack of trust in the FBI to do the job well. If that is an implicit assumption of this new presidential executive order, it could undermine the mutual confidence and cooperation between the FBI and the CIA which has been so hard-won and is so essential.

When it comes to collecting necessary intelligence information about Americans overseas, that is a different matter. The FBI is not an overseas agency, and the CIA is the agency with the experience and the necessary contacts in that arena. Should the CIA, then, be given new authority to intrude into the lives of Americans abroad? The answer is both yes and no.

There are lesser risks here, simply because there is less implication that information gained about Americans might be utilized for domestic political purposes. Consequently, I believe we could safely relax some of the rules on the CIA's probing into Americans overseas. Specifically, the rules on investigating suspected espionage are drawn very tightly now, yet the loss to our country from successful espionage against us could be very severe.

Beyond this the waters are murky. There are other areas in which there is a legitimate intelligence interest in the activities of Americans abroad. Most often these are matters such as the flow of narcotics toward the United States or international terrorist operations. Our intelligence ac-

tivities in these areas today are hampered somewhat by limits contained in the present executive order. Despite this adverse impact in these special areas, I believe it is preferable not to change these rules and thus not risk unnecessary intrusions into the privacy of Americans abroad and a possible new wave of criticism.

Another reason for eschewing additional involvement of the CIA with American citizens, other than for suspected espionage overseas, is the adverse psychological impact it would have on CIA personnel. Intelligence is a risk-taking business. Intelligence officers who are bogged down in legal intricacies concerning intrusion into the lives of Americans will spend less time and thought on developing imaginative, risk-taking endeavors. It is a subtle but important point of focusing the intelligence professional on his profession as much as possible.

Finally, the proposed changes risk the politicization of intelligence. This is the third effort by this administration to formulate some relaxation of the controls on the CIA. The impetus behind this determination appears to lie in rhetoric of the campaign and transition periods that averred that the CIA was unduly shackled by President Carter's executive order of January 1978. A close comparison of that order with the

one issued in 1976 by President Ford (with George Bush as director of Central Intelligence) shows that there was no significant change in this area of the regulation of CIA activities with respect to Americans. This is not, then, a political issue and should not be pursued as the fulfillment of political promises.

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The Senate Intelligence Committee has already taken a non-partisan stand against this new security order. Yet its advice is not binding on the president. All this emphasizes the importance of Congress' enacting legislation in this area that will endure from administration to administration. An issue of this significance to American values deserves the kind of thorough debate that would be involved in enacting a legislative charter for the entire intelligence community. Such a charter would, among other topics, spell out the line between the needed secrecy of our intelligence operations and the fundamental openness of our democratic society. It is an issue so vital to both our security and to our freedoms that it should be addressed in congressional statutes that provide much of the continuity in our governmental system.

The writer was formerly director of the CIA.